

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

U.S. BANK NATIONAL ASSOCIATION,	§	
AS TRUSTEE FOR ASSET BACKED	§	
SECURITIES CORPORATION HOME	§	
EQUITY LOAN TRUST, SERIES NC	§	
2006-HE2 ASSET BACKED PASS-	§	
THROUGH CERTIFICATES, SERIES NC	§	Civil Action No. 2:19-cv-369
2006-HE2,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
MICHAEL PREVITY, DANIEL PREVITY,	§	
PATRICIA PREVITY, AND THERESA	§	
LOPEZ,	§	
	§	
Defendant.	§	

PLAINTIFF'S MOTION FOR ATTORNEYS' FEES

U.S Bank National Association as Trustee for Asset-Backed Securities Corporation
Home Equity Loan Trust, Series NC 2006-HE2 Asset Backed Pass-Through Certificates, Series
NC 2006-HE2 (“Plaintiff”) files this *Plaintiff’s Motion for Attorneys’ Fees* (“Motion”) and
respectfully shows the Court:

1. On December 6, 2019, Plaintiff filed its *Original Complaint* against Michael Preivity, Daniel Preivity, Patricia Preivity, and Theresa Lopez (together, “Defendants”) seeking an order allowing foreclosure against their interest in certain real property. (ECF No. 1.)

2. On December 8, 2020, Plaintiff filed *Plaintiff's Motion for Final Default Judgment* ("Motion"). (ECF No. 27.) The Court entered the Order granting Plaintiff's Motion on January 7, 2021. (ECF No. 28.) The Order allowed Plaintiff to seek attorneys' fees through subsequent motion pursuant to Federal Rule of Civil Procedure 54(d)(2)(B)(i).

3. Plaintiff incurred \$10,907.70 in reasonable and necessary attorneys' fees in filing and prosecuting Plaintiff's claims to enforce its interest in certain real property as a result of the

default under the loan agreement made subject to this suit. *See* **Exhibit A**, Declaration of Mark D. Cronenwett. A true and correct copy of the detailed billing statements showing the attorneys' fees by name, date, and amount is attached hereto as **Exhibit A-2**. Accordingly, in this Motion, Plaintiff requests an award of attorneys' fees in the amount of \$10,907.70 that it has incurred in this case.

4. Plaintiff is entitled to attorneys' fees pursuant to Texas Civil Practice and Remedies Code section 38.001 because this suit is to enforce a written contract through foreclosure. *See* TEX. CIV. P. REM. CODE § 38.001(8). Furthermore, the loan contract provides for recovery of reasonable attorneys' fees incurred in pursuit of foreclosure. (*See* ECF Docket No. 1-1, p. 2, ¶ and p. 3, ¶.6) Plaintiff seeks attorneys' fees as an additional debt secured by the subject Note and Security Instrument and not as a personal judgment against the Defendants.

PRAYER

For these reasons, Plaintiff requests that the Court award Plaintiff attorneys' fees in the total amount of \$10,907.70, to be recovered not as a personal judgment against Defendants but as a further obligation secured by the property at issue under the Note and Security Instrument made basis of this suit. Plaintiff also prays for all relief, whether at law or in equity, to which it is justly entitled.

Respectfully submitted,

By: /s/ Vivian N. Lopez

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing to be delivered to the following in the manner indicated on this the January 11, 2021.

Via U.S. Mail

Daniel Previty

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Michael Previty

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Patricia Previty

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/s/ Vivian N. Lopez

VIVIAN N. LOPEZ